

EXECUTIVE EXCHANGE VOLUNTARY SERVICES ACT OF  
1986

AUGUST 15 (legislative day, AUGUST 11), 1986.—Ordered to be printed

Mr. ROTH, from the Committee on Governmental Affairs,  
submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 3002]

The Committee on Governmental Affairs, to which was referred the bill (H.R. 3002) to establish voluntary services for the executive exchange program of the government, having considered the same, reports favorably thereon with an amendment in the nature of a substitute and recommends that the bill as amended do pass.

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I. PURPOSE OF THE LEGISLATION

It is the purpose of the legislation to provide for the establishment of an experimental program relating to the acceptance of voluntary services from participants in an executive exchange program of the Government.

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## II. PROVISIONS OF THE LEGISLATION

The experimental program that would be established by this legislation would allow a small group of private sector exchange participants, up to ten per year for three years beginning in fiscal year 1987, to serve as volunteers in the Federal government. These exchange participants would serve as Federal employees but would be compensated by their private sector sponsoring organizations. Participants would be subject to Federal regulations relating to conflict of interest, financial disclosure, and standards of conduct. At the conclusion of the experimental program, the General Accounting Office must evaluate the advantages and disadvantages of the program and submit the results in a report to the Congress.

## III. HISTORY OF THE LEGISLATION

H.R. 3002 was introduced by Congressman Horton on July 16, 1985, for himself, Congresswoman Schroeder, and Congressman Dwyer. The House Subcommittee on Civil Service held one hearing on H.R. 3002. It was reported from the House Committee on the Post Office and Civil Service with an amendment on March 25, 1986, and passed the House of Representatives under suspension on April 8, 1986.

Senator Ted Stevens and Senator Frank Lautenberg introduced the companion bill to H.R. 3002, S. 1627, on September 11, 1986. That legislation was unanimously referred from the Senate Subcommittee on Civil Service, the Post Office and General Services to the Committee on Governmental Affairs on April 30, 1986. H.R. 3002 closely resembles S. 2115, as amended by the Senate Subcommittee on Civil Service, Post Office, and General Services during the second session of the ninety-eighth Congress.

In October, 1984, the Governmental Affairs Committee requested the General Accounting Office (GAO) to review the President's Commission on Exchange Program. The review focused on the commission's conflict of interest procedures and controls and on its system for evaluating program results.

The GAO report contained three recommendations pertaining to those issues, and the Commission has incorporated the GAO recommendation into their original procedures.

The Committee adopted an amendment offered by Senator Eagleton which provided for the General Accounting Office to conduct the report of the voluntary services experimental exchange program rather than the President's Commission on Executive Exchange. The bill was favorably reported out of the Committee on Governmental Affairs on June 25, 1986.

## IV. STATEMENT

The President's Commission on Executive Exchange was originally established as the President's Commission on Personnel Interchange by President Johnson in 1969. President Carter renamed the program in 1979, and President Reagan issued an executive order extending the executive exchange program in 1984.

The essential purpose of the program is to promote a better relationship between government and business. Both sectors benefit

from this program of exchange. Members of the private sector gain first-hand experience in government operations, and the government gains access to the expertise that has been developed in the private sector.

Under current law, private sector executives participating in the Executive Exchange Program are paid by their host Federal agencies. Consequently, their salaries are limited to the maximum salary set for Executive Level IV employees—currently \$72,300 per year. This salary limitation has become a serious impediment to recruiting private sector executives for service in the program. Individuals having the appropriate mix of interest, experience and career potential are generally earning above the maximum Federal salary.

The committee believes that accepting the voluntary services of private sector executives would enhance the attractiveness of the executive exchange program. This legislation would allow up to 10 participants per year for a period of 3 years to volunteer for the program. Participants would be compensated by their sponsoring agency in the private sector.

The volunteers would not be entitled to Federal pay and related benefits, particularly retirement, health insurance, life insurance and leave. The legislation includes safeguards to protect the displacement of Federal employees by executive volunteers. Additionally, the participants would be subject to Federal laws regulating conflict of interest, financial disclosure and standards of conduct.

At the conclusion of the program, the General Accounting Office would conduct a review of the executive exchange program, particularly with regard to the advantages and disadvantages of accepting volunteer services, as well as the effects of the volunteer program on the morale of career Federal employees. This report would be submitted to the Congress, and should include recommendations for legislation relating to the continuation, or termination, of the program.

The committee believes that the executive exchange program fosters an essential relationship between the public and private sectors. Accepting volunteer services will enable the administrators of the program to recruit highly qualified individuals who were formerly unattracted to the program because of the substantial paycut in moving to the public sector. This legislation would provide an opportunity for the government to experiment with a voluntary services program on a limited basis, at no cost to the taxpayer.

#### V. SECTION-BY-SECTION ANALYSIS

Section 1 designates the act as the "Executive Exchange Program Voluntary Services Act of 1986".

Section 2 paragraph (1) defines "Government" as the Federal government. Paragraph (2) defines a "participant in an executive exchange program" as an executive from the private sector participating in the program administered by the President's Commission on Executive Exchange. Paragraph (3) defines "agency" as an Executive agency, the United States Postal Service and the Postal Rate Commission. Paragraph (4) defines "employee of the Government"

as an individual employed in or under an agency as defined in paragraph (3).

Section 3, subsection (a), allows the President to establish an experimental program accepting voluntary services beginning in fiscal year 1987 for three years.

Subsection (b) permits the voluntary services of an individual if (1) the individual is already part of an executive exchange program and (2), the acceptance of voluntary services would not displace a Federal employee, and (3), those services would be performed under the auspices of an agency.

Subsection (c) provides that persons who are performing voluntary services under the experimental program are subject to Federal laws relating to conflict of interest, financial disclosure, and standards of conduct, but not relating to laws providing pay, leave, and insurance and health benefits.

Subsection (d) limits participation in the experimental program to ten individuals per fiscal year.

Subsection (e), paragraph (1) provides that participation in the experimental program shall not prevent the volunteer from receiving benefits from his private employer, including continuation of pay, pension, investment, and insurance plans. Paragraph (2) defines the "private-sector employer" as the corporation or person who employed the participant in the experimental program before he/she volunteered to the program.

Section 4 requires that the General Accounting Office shall review the activities and successes of the experimental program, and submit that report to Congress, not later than March 31, 1989, as well as recommendations for legislation relating to the future of the program.

#### VI. EVALUATION OF REGULATORY IMPACT

Paragraph 11(b)(1) of rule XXVI requires that each report accompanying a bill evaluate "the regulatory impact which would be incurred in carrying out the bill."

H.R. 3002 will not have any additional regulatory impact. It does not authorize any additional regulation of activities in the private sector, impose any new recordkeeping or reporting requirements on any segment of the public, or abolish any existing regulations.

#### VII. CHANGES IN EXISTING LAW

Rule XXVI of the Standing Rules of the Senate requires that changes in existing law made by the bill, as reported, be detailed in the Committee Report accompanying the bill. No changes in existing law are necessitated by H.R. 3002, as amended.

#### VIII. ESTIMATED COST OF THE LEGISLATION

Pursuant to Section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed the cost implications of H.R. 3002. The following is CBO's estimate of the potential costs of this legislation:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE,  
Washington, DC, July 14, 1986.

Hon. WILLIAM V. ROTH,  
*Chairman, Committee on Governmental Affairs, U.S. Senate, Dirksen Senate Office Building, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 3002, the Executive Exchange Program Voluntary Services Act of 1986, as ordered reported by the Senate Committee on Governmental Affairs, June 25, 1986. We estimate that were this act to become law, it would result in no significant cost to the Federal Government and in no cost to State or local governments.

This act would establish a three-year experimental program allowing private sector participants in the President's Commission on Executive Exchange to be paid above the government pay ceiling. Only ten individuals may commence participation during a fiscal year, and they would be paid by their sponsoring businesses. The act would also require the General Accounting Office to report to the Congress on the experimental program by March 31, 1989.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,  
Sincerely,

RUDOLPH G. PENNER.

IX. ROLLCALL VOTE IN COMMITTEE

In compliance with paragraph 7(c) of rule XXVI of the Standing Rules of the Senate, the rollcall vote taken during committee consideration of this legislation was as follows: On ordering the bill, as amended, reported to the Senate, Messrs. Roth, Mathias, Durenberger, Rudman, Cochran, Eagleton, and Levin voted in the affirmative. Messrs. Stevens, Cohen, Glenn, and Gore were not present when the vote occurred but expressed their approval of the legislation during its consideration by the Committee.

## ADDITIONAL VIEWS OF SENATOR EAGLETON

In committee I offered an amendment which addressed one of my concerns about this legislation. The Committee adopted the amendment and provided that GAO, rather than the President's Commission on Executive Exchange, issue the report on the experimental program at the end of three years. Although I then voted to report the measure, I continue to have serious misgivings in regard to its underlying concept.

The bill will permit 10 private sector participants in each of the three years of the program to work for the government but be paid by their private employers. In my view, there is no escaping the fundamental conflict of interest established by this scheme. It has been a longstanding principle in the Federal Government that employees of the government should not serve two masters. The Justice Department, in a letter to Chairwoman Patricia Schroeder of the House Civil Service Subcommittee, presented four good arguments in support of that principle:

- (1) government employees who are paid by outside sources may be subject to pressures from those sources that can adversely affect their service to the Federal Government;

- (2) such employees may tend to favor the interests of the outside sources of payment even in the absence of actual pressure;

- (3) employees paid by outside sources are less subject to agency discipline, and are often substantially better paid, than their fellow employees, which may lead to internal personnel difficulties; and

- (4) even in the absence of any specific problems, such payment may result in the appearance of impropriety. (Congressional Record, April 8, 1986, p. H 1605)

When the experimental program ends in three years, I urge Congress to give careful consideration to the inherent potential for conflict of interest in any such scheme, no matter how carefully crafted. Personally, because of this inherent problem, I could not agree to a permanent authorization of this program, and I would seriously question any extension.

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